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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

In re Marriage of RIFKA A. HUNT and THEODORE J. HUNT, SR.	
RIFKA A. HUNT, Respondent, v. THEODORE J. HUNT, SR., Appellant.	G052378 (Super. Ct. No. 11D011289) O P I N I O N

Appeal from a postjudgment order of the Superior Court of Orange County, Debra C. Carrillo, Judge. Affirmed.

Theodore J. Hunt, Sr., in pro. per. for Appellant.

No appearance for Respondent.

* * *

Appellant Theodore J. Hunt, Sr., (Theodore)[1] appeals from an order authorizing the court clerk to sign a listing agreement on his behalf, giving his former wife, respondent Rifka A. Hunt (Rifka), authority to make all decisions as to sale of certain real property (Property) the parties owned during their marriage, and awarding her $4,000 in sanctions. He claims his due process rights were violated because 1) the order was issued ex parte; 2) there was insufficient evidence to support it; and 3) he did not receive notice of the sanctions request. As discussed below, Theodore has forfeited his arguments on appeal because he has failed to properly brief them. Thus we affirm.

FACTS AND PROCEDURAL HISTORY

We include a brief summary of the facts, which we gleaned from our review of the clerk's transcript, for background and context. On July 22 Rifka filed an ex parte request for authority to list the Property, to have the court clerk sign the listing agreement on behalf of Theodore and to order that Rifka have exclusive authority to make decisions as to sale of the Property, including listing price and whether to accept an offer. Rifka also sought $4,000 in sanctions.

In his declaration in support of the ex parte motion, Rifka's attorney set out the history of the attempt to sell the Property. The April 2014 judgment ordered the Property sold if Theodore did not refinance it by August. Theodore did not do so but did not agree to list it, requiring Rifka to obtain an order to have the Property listed. Although that order was issued in December 2014, Theodore refused to agree to a realtor, requiring another order granted on April 3, 2015 to designate same. The court also ordered Theodore to sign the listing within 48 hours. If he did not do so, Rifka could "seek relief from the Court."

[1] We use the parties' first names for clarity, not out of any disrespect.

As of the date the ex parte motion was filed in July 2015, Theodore had not yet signed the listing agreement as presented but had signed only the disclosure statement. The attorney stated Rifka was being irreparably injured because "she [was] in dire need of the funds from sale of the [P]roperty." The declaration further stated Theodore had crossed out the listing price shown on the listing agreement and would not agree to a reasonable price.

Despite the fact the realtor had provided Theodore with comparable prices for the area and had based the recommended listing price on an estimator's review of the Property, Theodore insisted the Property be listed for $125,000 over the recommended sales price, $725,000 instead of $599,000. Rifka's attorney stated this was "another attempt for [Theodore] to frustrate and delay the sale of the [P]roperty."

Rifka agreed she would rely on the realtor's advice as to the sale, including the price and whether to accept an offer. She also agreed to give Theodore notice of all of the offers and decisions she made.

Rifka's attorney gave e-mail notice on July 15 for a hearing to occur on July 22 where she would seek to have the clerk sign the listing agreement and for exclusive authority to make decisions as to the sale. The Register of Actions shows Theodore filed a response but he did not include it in the transcript. On July 22 the court granted the requested orders but reduced the sanctions award to $3,000.

DISCUSSION

Theodore's brief was almost completely deficient, leading us to conclude his arguments on appeal should be forfeited.

California Rules of Court, rule 8.204(a)(1)(C) (all further references to rules are to the California Rules of Court) requires "any reference to a matter in the record" to be supported by a citation to its location. These citations must be included in both the summary of facts and the argument portion of the brief even if duplicative. (*City*

of Lincoln v. Barringer (2002) 102 Cal.App.4th 1211, 1239, fn. 16.) Theodore did not include one citation to the record in his brief.

We are not required to do Theodore's work for him by searching the record ourselves to find support for his claims. (*Schmidlin v. City of Palo Alto* (2007) 157 Cal.App.4th 728, 738 ["'It is neither practical nor appropriate for us to comb the record on [a party's] behalf'"] (*Schmidlin*).) It makes no difference that Theodore is acting in propria persona. "Pro. per. litigants are held to the same standards as attorneys. [Citations.]" (*Kobayashi v. Superior Court* (2009) 175 Cal.App.4th 536, 543.) Moreover, Theodore is an attorney, although not currently active due to failure to comply with Minimum Continuing Legal Education (MCLE) requirements.[2] There is no excuse for his failure to comply.

Furthermore, when an appellant challenges the sufficiency of the evidence as Theodore did here, it is his responsibility to "'summarize the evidence on that point, favorable and unfavorable, and show how and why it is insufficient.'" (*Schmidlin*, *supra*, 157 Cal.App.4th at p.738, italics omitted.) Otherwise the argument as to sufficiency of the evidence is waived. (*Ibid*.) Theodore's statement of facts is slightly longer than one page and includes only a few facts, not nearly those required. In addition, he includes argument within this section. Further, although he sets out more facts in the argument portion of the brief, he still fails to include any facts favorable to Rifka.

In addition, Theodore did not provide a reporter's transcript. While it is not required, since it was not designated we cannot consider anything that happened at the hearing on the ex parte motion. "A fundamental principle of appellate law is the judgment or order of the lower court is presumed correct and the appellant must affirmatively show error by an adequate record." (*Parker v. Harbert* (2012) 212

[2] We take judicial notice of the California State Bar records posted on its official Web site as of October 21, 2016 that show Theodore John Hunt has been inactive since July 1, 2015. (See *In re White* (2004) 121 Cal.App.4th 1453, 1469, fn. 14.)

Cal.App.4th 1172, 1178.) "[I]f it is not in the record, it did not happen." (*Protect Our Water v. County of Merced* (2003) 110 Cal.App.4th 362, 364.) Thus, we cannot consider Theodore's arguments relating to statements by the court at the hearing.

Moreover, much of Theodore's argument is rambling and irrelevant. He fails to support eight of his nine pages of single-spaced contentions with any legal authority. This violates rule 8.204(a)(1)(B),[3] which requires a brief to support each issue by reasoned legal argument and legal citation if available. Failure to do so is another ground for ruling Theodore has forfeited his arguments. (*Benach v. County of Los Angeles* (2007) 149 Cal.App.4th 836, 852.)

DISPOSITION

The order is affirmed. Rifka is entitled to costs, if any were incurred, on appeal.

THOMPSON, J.

WE CONCUR:

BEDSWORTH, ACTING P. J.

ARONSON, J.

[3] There were other violations of rule 8.204 including a font size less than 13-point (rule 8.204(b)(4)) and a failure to include a certification as to word count (8.204(c)(1)). We do not rely on these violations as a basis for our decision.